



## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

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**MAILED****JUL 18 2006**

**PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Applicants: Diab et al.  
Application No.: 09/195,791  
Filed: 11/17/98  
For: Signal Processing Apparatus

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,478.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/ss/ Jameson Lee  
JAMESON LEE  
Administrative Patent Judge

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Paper 1

Filed:  
July 18, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

JONATHAN TIEN and DAVID R. MARBLE  
Junior Party  
(Patent 5,687,722),

**MAILED**

JUL 18 2006

v.

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

MOHAMED K. DIAB, ESMAIEL KIANI-AZRBAY JANY,  
IBRAHIM M. ELFADEL, REX J. MCCARTHY,  
WALTER M. WEBER and ROBERT A. SMITH  
Senior Party  
(Application 09/195,791).

Patent Interference No. 105,478  
(Technology Center 3700)

**DECLARATION - Bd.R. 203(d)<sup>1</sup>**

1 **Part A. Declaration of interference**

2 An interference is declared (35 U.S.C. § 135(a)) between the above-identified  
3 parties. Details of the application(s), patent (if any), reissue application (if any),  
4 count(s) and claims designated as corresponding or as not corresponding to the  
5 count(s) appear in Parts E and F of this DECLARATION.

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<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1        **Part B. Judge managing the interference**

2        Administrative Patent Judge Jameson Lee has been designated to manage the  
3 interference. Bd. R. 104(a).

4        **Part C. Standing order**

5        A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this  
6 DECLARATION. The STANDING ORDER applies to this interference.

7        **Part D. Initial conference call**

8        A telephone conference call to discuss the interference is set for **2:00 p.m. on**  
9 **September 12, 2006** (the Board will initiate the call).

10       No later than **four business days** prior to the conference call, each party shall  
11 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;  
12 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

13       A sample schedule for taking action during the motion phase appears as Form 2  
14 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to  
15 the conference call and to agree on dates for taking action. A typical motion period  
16 lasts approximately eight (8) months. Counsel should be prepared to justify any  
17 request for a shorter or longer period.

**Part E. Identification and order of the parties**

Junior Party

Named inventors: Jonathan Tien, Redmond, WA  
David R. Marble, Seattle, WA

Involved Patent: 5,687,722, granted November 18, 1997  
based on application 08/507,754, filed  
July 26, 1995

Title: System and method for the algebraic derivation of  
physiological signals

Assignee: SpaceLabs Medical, Inc.

Senior Party

Named Inventors: Mohamed K. Diab, Laguna Niguel, CA  
Esmaiel Kiani-Azarbay Jany, Laguna Niguel, CA  
Ibrahim M. Elfadel, Laguna Niguel, CA  
Rex J. McCarthy, Mission Viejo, CA  
Walter M. Weber, Los Angeles, CA  
Robert A. Smith, Corona, CA

Involved Application: 09/195,791, filed November 17, 1998

Title: Signal processing apparatus

Assignee: Comerica Bank-California

The senior party is assigned exhibit numbers 1001-1999. The junior party is  
assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party  
is responsible for initiating settlement discussions. SO ¶ 126.1.

**Part F. Count and claims of the parties**

**Count 1**

Claim 11 of Tien's Patent 5,687,722  
or  
Claim 22 of Diab's Application 09/195,791

The claims of the parties are:

Tien: 1-28

Diab: 15-26

The claims of the parties which correspond to Count 1 are:

Tien: 1-28

Diab: 15-26

The claims of the parties which do not correspond to Count 1, and therefore are  
not involved in the interference, are:

Tien: None

Diab: None

The parties are accorded the following benefit for Count 1:

Tien: 08/442,834, filed May 17, 1995

Diab: Application 08/859,837, filed May 16, 1997  
Application 08/320,154, filed October 7, 1994  
Application 08/132,812, filed October 6, 1993

**Part G. Heading to be used on papers**

The following heading must be used on all papers filed in this interference, see

SO ¶ 106.1.1:

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Junior Party  
(Patent 5,687,722),

v.

MOHAMED K. DIAB, ESMAIEL KIANI-AZRBAY JANY,  
IBRAHIM M. ELFADEL, REX J. MCCARTHY,  
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1           **Part H. Order form for requesting file copies**

2           When requesting copies of files, use of SO Form 4 will greatly expedite  
3 processing of the request. Please attach a copy of Parts E and F of this  
4 DECLARATION with a hand-drawn circle around the patents and applications for which  
5 a copy of a file wrapper is requested.

/s/Jameson Lee  
Administrative Patent Judge

Enc:

Copy of STANDING ORDER  
Copy U.S. Patent 5,687,722  
Copy of claims of Application 09/195,791

Revised 3 January 2006

cc (via overnight delivery):

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